

IRELAND'S KNOWLEDGE DEVELOPMENT BOX

February 2016

With effect from 1 January 2016, Ireland has introduced a corporation tax relief known as the Knowledge Development Box (KDB), in line with the OECD's modified nexus approach to preferential tax regimes.

What is the benefit of the KDB?

It provides that profits from:

- patented inventions and copyrighted software,
- medical products protected under EU Regulations,
- certain plants protected under the Plant Protection Directive and
- Protected plant breeders rights

(qualifying assets) earned by an Irish company can, to the extent to which they relate to research and development (R&D) undertaken by that company, be taxed at the rate of 6.25 %.

The KDB does not apply to assets like trademarks and brands.

For how long is the 6.25% rate available?

The 6.25% rate is available to companies for accounting periods beginning on or after 1 January 2016 and before 1 January 2021.

On what profits is the 6.25% rate claimable?

The amount of the profits arising from the qualifying assets that can avail of the relief will be determined by the proportion that the Irish company's R&D costs (qualifying expenditure) bear to the total R&D costs (overall expenditure) incurred on the qualifying assets.

Example:

QAZ Limited is an Irish company owned by a German resident entrepreneur. It conducts research in 2016-17 to develop a patented device which enables car manufacturers to reduce noxious emissions by up to 25 %. Although QAZ Limited is based in Ireland and carries out the substance of its patent development work in Ireland it commissions universities in France and Poland to carry out some of the research and development on the devices.

If QAZ Limited sell or licences the patent before the end of its accounting year which begins in 2020, it will pay corporation tax at the rate of 6.25 % on profits derived from the research and development of the patent for that accounting period. Profits derived from other aspects of the device such manufacturing of the device by QAZ Limited will most

What records must be maintained?

Detailed records must be maintained to verify a company's entitlement to the relief. Transitional arrangements will cover qualifying expenditure incurred before 1 January 2016.

Interlinked qualifying assets

Each qualifying asset is to be treated separately for the purposes of the KDB. However, if a number of qualifying assets are so interlinked that it would be impossible to apply the relief on that basis, provision is made for using a "family of assets". Provision is made to ensure that a company which claims the payable R&D tax credit will not receive a larger payable tax credit because of the operation of the relief in this section.

Transfer pricing rules to apply

Large companies must apply transfer pricing rules from Part 35A to determine the overall income that qualifies, to any inter-company transactions that are relevant to the relief and also to any apportionments required between that company's normal trading activities and the activities which qualify for the relief rate.

Smaller companies that are not subject to transfer pricing legislation must apportion income, where required, on a "just and reasonable" basis.

Losses

Where a company incurs a loss on the activities that qualify for the relief, these losses are available for relief on a value basis against other profits.

Verification

Power is given to the Revenue Commissioners to consult with experts in relation to specific aspects of the regime. A right of appeal has been provided if disclosure to an expert would be prejudicial to a company's trade or business.

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The above is intended as a general guide to law only. It is not intended as a full statement of the law on any point. Before taking action in relation to any matter, full professional advice should be obtained.